

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVIS IGLESIAS,)	
)	
Plaintiff,)	C.A. No. 14-22 Erie
)	
v.)	
)	
CORRECTIONS OFFICER MROZEK,)	
SERGEANT WILLIAMS,)	
LIEUTENANT HILDALGO,)	
SUPERVISOR DITTMANN, and)	
FACILITY MANAGER)	
MICHAEL D. OVERMYER)	
Defendants.)	

MEMORANDUM ORDER

This prisoner civil rights action was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff David Iglesias filed his initial Complaint on January 28, 2014. Iglesias filed a “Second Complaint” on February 7, 2014. Defendants jointly filed DEFENDANTS’ MOTION TO DISMISS SECOND COMPLAINT (ECF No. 12), with brief in support. Plaintiff Iglesias filed a response in opposition to the motion, a Declaration, and a proposed amended Complaint (ECF Nos. 15, 16, 17). The motion is ripe for disposition. On December 10, 2014, Magistrate Judge Susan Baxter issued an eight-page Report and Recommendation (“R&R”), which recommended that the Motion to Dismiss the Second Complaint [12] be GRANTED. No

Objections to the R&R were filed.

After de novo review of the complaint and documents in the case, together with the R&R, the Court agrees with the thorough and persuasive analysis of the Magistrate Judge. Iglesias failed to properly exhaust the administrative remedies available to him under the DC-ADM 804 grievance system because he failed to pursue any of his grievances to the “Final Review” stage. Thus, he is not entitled to bring an action in federal court. 42 U.S.C. § 1997e(a).

Plaintiff has already filed two complaints in this case. The Court finds that it would be inequitable to grant him leave to file a third complaint. Moreover, amendment of the complaint would be futile, as the time limits during which Iglesias was required to exhaust his administrative remedies have long since expired.

The following order is hereby entered:

AND NOW, this 12th Day of February, 2015, IT IS HEREBY ORDERED, ADJUDGED and DECREED that DEFENDANTS’ MOTION TO DISMISS SECOND COMPLAINT (ECF No. 12) is **GRANTED** and Plaintiff’s Second Complaint is **DISMISSED WITH PREJUDICE**.

The report and recommendation of Magistrate Judge Baxter, issued December 10, 2014, is adopted as the opinion of the court. The clerk shall docket this case closed.

/s Terrence F. McVerry
TERRENCE F. McVERRY
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record
David Iglesias by US Mail _____